Secy. II-43—34,345—28-1-22.

Law (General) **(1922.) Department.**

Ordinary SERIES.

G.O. No. 2959

DATED 29th November 1922.

[Despatch Abstract.]

Courts

Panchayat - working of - certain queries of District Magistrate, South Kanara - replied to.

C.F 81

LAW (GENERAL) DEPARTMENT.

Received 23-OCT-1922 Registered 192 .

Subject. R. G. 4154 B 23-10

Panchayat Courts - procedure in the disposal of - Criminal cases - Instructions solicited.

Enclosures.
No.
Spare copies

Ref. No. 1973-M-22.

Sathon Mangalore, dated the 21st October 1922.

From (Name) M.R.Ry. A. Ramacha Nedungadi, Avl., B.A., L
(Designation) District Magistrate of South Kanara.

To The Secretary to Government,
LAW (GENERAL) DEPARTMENT, Madras.

Sir,

Reference:- G.O.No. 572, dated 2nd March 1922.

The President of the Panchayat Court at Hebri solici instructions on the following points:-

(1) Under rule 33 of the rules framed under the Madras Village Courts Act, if the accused fails to appear aft - cervice of summons, or when it appears that he evades ----- service, a warrant for his arrest may issue.(a) Who should - execute the warrant thus issued or(a) what should be done, if the waranted fails to execute a bond or furnish security fo: his appearance on the date of hearing of the case?

(2) When a case is adjourned after the appearance of the accused, there is no provision in the rules for obtaining a bond from the accused to appear on the day to which the cas

2

is adjourned. If the accused refuses to execute such bonds for which there is no provision, what action can be taken against -- him?

(3) How batta to witnesses who are summoned to attend the --- Court on the complaints of the Police and of private parties can be paid?

(2) I beg to suggest the following:-

As regards point 1, a warrant of arrest may be endorsed to the Station House Officer concerned for execution. Bailbonds -- need not be obtained by the Presidents of Panchayat Courts. The accused may be directed to appear on the date to which the case -- stands posted, and if he fails to comply with the order he may be proceeded against under Section 174 I.P.C. } A

As regards point 2, also no bailbonds need be taken. The -- accused may be informed of the date of adjournment and directed to attend on that date and on failure proceeded against under Section 174 I.P.C. B

As regards point 3, the batta bills may be forwarded by the President to the Local Sub Magistrate having jurisdiction for ---- disposal. C.

(3) I beg to be informed whether the instructions suggested --- above may be issued to Presidents of Panchayat Courts and if not, -- what instructions should be issued in the matter.

District Magistrate.

Law & General

pp 1-2 CF

C No 24154 B/1, From the D.M. South Kanara Rc/f No: 19734/41-22/1 21-11-22.
Subject re: Panchayat. Copy to/d—

re Procedure in Criminal cases.

No?

1. The points raised in the D.M's letter are noted below:—

p1½ CF

(1)(a) Who should execute the warrant?

The question is raised in the reference to rule 33rd of the Rules under the Village Courts Act. When the draft rules were under consideration, the D.M. Salem made remarks on the point as follows:— "If the person summoned, disobeys the Summons ... the (Panchayat Court) shall apply to the Magistrate having local jurisdiction to issue a warrant ... & have it executed in the same manner as he does with the warrant of his Court etc. ..."

p4 of Go 572 (B) 2-3-22

Notes at (P) portions marked 'k'

Again the following view was suggested by a Dt. Board Member when the rules were published for criticism:— "The warrant to issued by the Panchayat Court should be got executed by the Police"

Notes under Rule 32 at- (K)

Both the above suggestions were rejected by the Govt. for the reasons that sections 11 & 12 of the Village Courts Act provides for the service of process within the area and rule 49 of the Rules provides for service outside the Jurisdiction. The D.M. may be informed accordingly. 'M'

Notes on p 12A at (K)

p 4 of D.O. 572 2-3 (B)

13/11/

(b) What should be done if the warrantee fails to execute a bond or furnish security for his appearance on the date of hearing the case?

In connection with this failure of the accused to comply with the warrant, D.M's Malabar, South Kanara & N. Arcot & Ballary, the Cd. that any person who wilfully disobeys a summons issued by a Panchayat Court should be punished under sections 172, 174 of the I.P.C. on the report of the President. It was thought unnecessary to make any provision in the rules on this account presumably because even without such a provision a person who disobeys a legal order would be punishable under section 174 I.P.C.

pp 20-21 ante notes at (P)

Vide A.S. (Leg)'s marginal note to ante p 21 at (P)

13/11/

The D.C. may be informed accordingly.

(2) Appearance of the accused after the adjournment of the case, and the penalty for failure.

Page 4 ante Ex. 572 (B) 2-3-22

Rule 46 of the Rules under the Village Courts Act provides for the adjournment of cases by Panchayat Courts. The point raised is that here is allied to that discussed supra. No action is called for.

41 ante

(3) Batta bills to witnesses

Without making provision in the Rules for the payment of batta to witnesses, a witness batta register in Form III was included in the draft rules, at the instance of the Collector of Nellore. When the draft rules were forwarded to the High Court for remarks, it remarked on the form as follows:—

at Flag (L)

portion marked 'X' at Flag (V)

"Form No. III is not understood. No provision is made in the Rules for payment of batta to the witnesses nor do the Hon'ble the Judges consider that such provision shall be made."

9 The form was finally dropped

Vide AS Legislative Dept. Ex. No. 50 & C.S. Review at (n) under X

and no provision made in the rules apparently because the witness being local resident need not be paid any batta. The D.H. may be informed in these lines. ...

2 The file may ~~be transferred~~ sent to the A.S (Leg) for his remarks if any (perusal and)

J.D.
30.10.22.

1.11.22

A.S. (Leg. Deptt)

31-10-22.

It was not considered necessary to make provision for payment of batta to witnesses as most of them will be persons of the locality or the neighbourhood. If in special cases it is considered necessary to pay batta, the question may be considered.

7/11/22

Seen

I agree.

Only in regard to point 2, cannot points

6 7

even in the absence of a specific power take a bond, under general principles of law?

MM 14/11/22

The panchayat court may have the inherent power to take a bail bond or recognizance but in the absence of provisions like section 547 Criminal Procedure Code to enforce recovery, it would be useless.

Assistant Secretary.
14-11-22

Sec

MM 15/11/22

ASSISTANT SECRETARY TO GOVERNMENT
14 NOV 1922
LEGISLATIVE DEPARTMENT

L-5 4548B
15-11-22

Law Sec

Law (Genl)

vs.

a draft order is submitted.

JD 17/11/22

CR 24.11.22

MM 27/11/22

AM 18-11-22

CB

LG 28/11/22

28/11

SECRETARY TO GOVERNMENT OF MADRAS
28 NOV 1922
LAW DEPARTMENT

Scott. II-10 (a)—48,962—2-2-22. (6)

Law (Genl) DEPARTMENT.

	Date.	Initials.
When received for Fair-copying.		
When copied ..		
When examined ..		
When signed ..		
When despatched ..		

Cant b.

Panchayat —
working of — certain queris
D.M. South Kanara — replied
to.

READ AGAIN G.O. No....., dated..... 192 .

" " " " ..... " ..... 192 .

READ ALSO

Ref

C. No. 4454 B, From the D.M. South Kanara, No. 1973-17-22 dated 21-10-1922

M1-2CR

" " ..... " " ..... " " ..... 192 .

" " ..... " " ..... " " ..... 192 .

ORDER.

No. 2959, dated 25/11/1922

Mis.

M1-2CR

K

In his letter Ref No. 1973-17-2 dt 21-10-22, the D.M. South Kanara solicits instructions with reference to certain queris raised by the President of the Panchayat Court at Hebri, on the working of Panchayat Courts. They are dealt with below ~~as follows~~:—

Execution of the warrant

(Rule 33 of Village Ct Rules

Sections 11 & 12 of the Village Courts Act provide for the service of process

P4 ; fo. 572 (13)
2-3-23

1) , —

~~The~~ within local jurisdiction of the Court he ~~area~~ and rule 49 of the Rules provides for service outside ~~the~~ jurisdiction. p/g fo. 572 (12) 2-3-22

Penalty for failure of the accused to execute a bond or security for his appearance on the date of hearing the case or failure of the accused to execute a bond for his appearance after the adjournment of the case.

The Govt observe that even without a specific provision in the rules prescribing the penalty, a person who disobeys a legal order would be punishable under section 174 I.P.C. p/o 2+3 nP.

They agree with the D.M. that no bailbonds or securities need be taken in either ~~circumstances~~ case. p/~~2+3~~ 5 nP p2 CP

Batta to witnesses

It was not considered necessary to make provision for payment of batta to witnesses as most of them will be persons of the locality or the neighbourhood. If ~~a special~~ ~~case~~ it is considered necessary p/4 nP several instances quoted by Kalla arise

to pay batta. the question will be considered at the next review of the rates

J.D. 17/11.22

24.11.22

MG 27/11/22

18-11-22.

The D.M. Sirsi
Kanara } 2 do.